

Present:
Mr. Justice Sheikh Abdul Awal
and
Mr. S.M. Iftexhar Uddin Mahamud

First Miscellaneous Appeal No. 373 of 2007

In the Matter of:

Shahera Begum and others

.....Plaintiff-appellants.

-Versus-

Md. Sekander Hayat alias Abdul Jalil Miah and
others

....Defendant-respondents.

No one appears

..... For the plaintiff-appellants.

No one appears

.....For the defendant-respondents.

Mr. A.K.M. Rezaul Karim Khandaker, D.A.G

.....For the Govt. respondent.

Judgment on 09.02.2026.

Sheikh Abdul Awal, J:

This First Miscellaneous Appeal is directed against the order dated 11.10.2007 passed by the learned Joint District Judge, 2nd Court, Narayangonj in Title Suit No. 271 of 2007 rejecting the prayer for temporary injunction under Order-39 Rule-1 and 2 of the Code of Civil Procedure against defendant respondent No. 2.

No one appears to press the Appeal on repeated calls.

In view of the fact that this petty case is an old one of 2007 arising out of an order, we are inclined to dispose of it on merit perusing the available materials on record.

On scrutiny of the record, it appears that appellants as plaintiffs instituted Title Suit No. 271 of 2007 before the learned

Joint District Judge, 2nd Court Narayangonj for declaration of title in respect of 'Ka' schedule land measuring 19.5 decimals of land wrongly recorded in R.S. Khatian in the name of the vendor and also praying a decree for recovery of Kash possession in respect of 'Kha' schedule of land measuring 11 decimals of land after evicting the defendant No.1 and also praying a decree for permanent injunction against the defendant No.2 in respect of "Ga" schedule land measuring 8.5 decimals of land.

After institution of the suit on 02.9.2007 the plaintiffs filed an application for temporary injunction under Order 39, Rule-1 and 2 read with section 151 of the Code of Civil Procedure against the defendant No.2 in respect of "Ga" schedule of land measuring 8.5 decimals land as described in the schedule of the plaint.

The learned Joint District Judge on hearing the plaintiffs by his order dated 02.09.2007 issued a show cause notice asking the defendant No. 2 as to why an order of ad-interim injunction should not be passed giving 7 days time.

Thereafter, the learned Joint District Judge by his order dated 11.10.2007 rejected the prayer for temporary injunction.

On perusal of the record, it appears that the learned Joint District Judge without assigning any reason whatsoever rejected the prayer for temporary injunction and thereafter the learned Joint District Judge again on an application filed by the plaintiffs on 23.10.2007 under Section 151 of the Code of the Civil Procedure rejected the prayer for temporary injunction without assigning any reason whatsoever.

It is true the trial Court below without assigning any reason whatsoever by the impugned 11.10.2007 rejected the prayer for temporary injunction without assigning any reason whatsoever. But from the available materials on record, it appears that the materials on record justify the order of rejection. It is now well settled that omission to assign reasons in the impugned order is not fatal, if in law the order is sustainable. So it is a mere irregularity not an illegality and the impugned order cannot be knocked down on that count. Besides, the suit is an old one of 2007 and at this stage without any assistance of the learned Advocates for the parties it is difficult to understand as to exact position of the suit. Therefore, we find nothing for interference.

In the result, the appeal is dismissed without any order as to costs.

Let a copy of this judgment be communicated to the Court concerned at once.

S.M. Iftekhar Uddin Mahamud, J:

I agree.